REMARKS

By this amendment, claims 1-4, 10 and 13 have been amended, and claims 14-15 have been added. Claims 5-13 stand withdrawn from consideration, and thus claims 1-4 and 14-15 that are dependent upon claim 1 are currently under examination in the present application. For the reasons set forth below, Applicants submit that the present amendments and arguments place this application in condition for immediate allowance.

The present amendments do not add any new matter to the present application. In particular, the formulas in Claims 4, 10 and 13 have been corrected due to an obvious typographical error in the two formulas shown in those claims. The first structure clearly included a typographical error, given that it is identified as "(3-glycidoxypropyl) trimethoxysilane," yet the provided structure was inadvertently missing an oxygen so that the epoxy group appeared to be a regular cyclopropyl group. This has now been corrected in the specification and claims. The second structure clearly included a typographical error in that it inadvertently included a sulfur atom before the silicon atom, which is neither found in the generic formulas, nor in any compound that is used in the process of preparing the compound (e.g., as disclosed at page 3 of the application). Indeed, the Examiner also recognized that the structure lacked a sulfur atom. Accordingly, the structure as corrected in the specification and claims does not contain the sulfur atom. Other minor amendments to the claims were to correct other inadvertent typographical errors or to place the claims in proper US form.

As an initial matter, in the Office Action dated July 22, 2009, the Examiner rejected claims 1-4 under 35 U.S.C. §112, 2d paragraph and 35 U.S.C. §101, taking the position that claim language needs a positive step for affecting the recited use. Without addressing the merits of this rejection, Applicants have overcome this rejection by amending the claim 1 to more clearly recite a positive step.

The Examiner further rejected claim 2, taking the position that the language "in particular" is indefinite. Without addressing the merits of this rejection, Applicants have overcome this rejection by removing "in particular" from the claims.

The Examiner further rejected claim 4, for the stated reason that the term "hydrogen" in line 2 lacks antecedent basis. Applicants point out that claim 4 included a typographical error, and by this amendment, the error has been corrected. Specifically, Applicants have corrected claim 4 to include the term the term "hydrogel", and not "hydrogen". Accordingly, the rejection has become moot.

In the Office Action, the Examiner rejected claim 4 under 35 U.S.C. §112, 1st paragraph for lack of enablement. Applicants point out that claim 4 included a typographical error in the presented structure. It is clear from the application as filed that the structure does not include a sulfur atom. Claim 4 has been amended to remove the inadvertently-inserted "S" from the structure. Accordingly, the rejection has become moot.

In the Office Action, the Examiner rejected claims 1 and 2 under 35 U.S.C. §102 as being anticipated by, under 35 U.S.C. §103 as being obvious over, and on the grounds

of nonstatutory obviousness-type double patenting based on U.S. Patent No. 6,001,394 to Daculsi et al. ("Daculsi").

Applicant points out that claims 1-4 in their current form are method claims requiring the positive steps of "providing a ...hydrogel; and mixing [] chondrocytes with the hydrogel *ex vivo*." Daculsi does not teach or suggest a method including these steps.

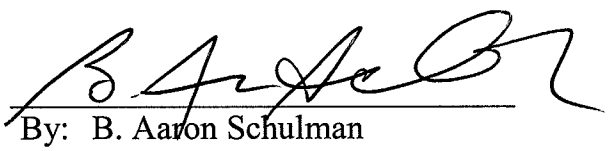
Without addressing the structural features of any structure described in Daculsi, nor any structure described in the present application, Applicant points out that the existence of a prior art compound does not preclude the invention of a patentable new use for that compound.

In view of the amendments to claim 1 that make clear the positive steps of the claimed method, and because Daculsi does not describe or suggest the claimed method, nor is there a reason to modify Daculsi to obtain the claimed method, Applicant respectfully submits that the rejections under 35 U.S.C. §§102 and 103, and based on nonstatutory obviousness-type double patenting should be withdrawn.

In light of the amendments and arguments provided herewith, Applicants submit that the present application overcomes all prior rejections and objections, and has been placed in condition for immediate allowance. Such action is respectfully requested.

Respectfully submitted,

Date: November 17, 2009



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